UNITED STATES PATENT AND TRADEMARK OFFICE

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10/698,141	10/31/2003	Edward Alan Clark	LUC-433/Clark 10	2903

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EXAMINER
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ART UNIT	PAPER NUMBER
2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/698,141	CLARK, EDWARD ALAN
Office Action Summary	Examiner	Art Unit
	JOSEPH T. PHAN	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 October 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,3-11,13-19,21 and 22</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1, 3-11, 13-19, and 21-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1 and 17 have been considered but are not

persuasive. Applicant argues that the secondary reference, Kambhatla, does not utilize UDP in

the same manner as recited in claims 1 and 17.

However, assuming arguendo, the examiner only incorporates Kambhatla to disclose UDP, as

related to the TCP/IP protocol used in Crockett, prior to applicant's claimed invention. Hence,

the examiner using Kambhatla as a Secondary reference rather than as a Primary reference.

Therefore Kambhatla is not required to teach other limitations from claims 1 and 17, other than

the disclosed UDP.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   **Claims 1, 3-11, 13-19, and 21-22 rejected under 35 U.S.C. 103(a) as being**

unpatentable over Crockett et al., Patent #7,336,771 in view of Kambhatla et al., Patent

#6,704,394.

Regarding claims 1 and 17, Crockett teaches a network(Fig.1) and method, comprising:

a Customer Premise Equipment (CPE) application server component(40 Fig.1) that provides one

or more services to a telephony device(25 Fig.1) on a call through establishing one or more data

streams associated with the call(24 Fig.1 and col.4 lines 24-57), the one or more services

selectively determined by a user of the telephony device(col.8 lines 30-44); and

an application server component with which the CPE application server component

communicates to provide the one or more services through employment of one or more protocols

to establish the one or more data streams(col.7 lines 3-16, 48-53 and col.8 lines 44-57).

Crockett does not expressly disclose wherein at least one of the protocols is a User

Datagram Protocol(UDP).

In a related field of endeavor (i.e. verbal prompting a caller and navigating the call based

on prompt selection), Kambhatla discloses a User Datagram Protocol(UDP) as a communication

protocol (Kambhatla col.6 lines 17-26).

At the time the invention was made, it would have been obvious to a person of ordinary

skill in the art to include UDP as one of the protocols used in Crockett's several communication

methods(Crockett col.6 lines 15-33).

One of ordinary skill in the art would have been motivated to do so as UDP, as taught by

Kambhatla, is defined as a simple communication protocol used often in real-time applications

and Crockett uses real-time applications in his call services invention(Crockett col.4 lines 24-32).

Furthermore, Crockett discloses that his invention is not limited to aforementioned protocols and

that related protocols are considered equivalents(Crockett col.28 lines 45-56) and therefore as

Kambhatla discloses UDP in the same breadth as the TCP/IP protocol used in

Crockett(Kambhatla col.6 lines 14-26) and are related protocols, it would have been obvious to

use. Utilizing UDP as one of the communication protocols in Crockett would also make it easier

to implement.

UDP was also old and well known at the time of the invention was made and it would have been

obvious to use along with Crockett's several other communication protocols(Crockett col.28

lines 45-56).

Regarding claim 3, Crockett in view of Kambhatla teaches the network of claim 1,

wherein the application server component establishes one or more web portals with the

telephony device(col.8 lines 6-57); wherein the CPE application server component and the

application server component provide the one or more services to the telephony device through

employment of the one or more web portals(col.8 lines 6-57).

Regarding claim 4, Crockett in view of Kambhatla teaches the network of claim 3,

wherein the CPE application server component and the application server component provide

one or more interfaces associated with the one or more services through employment of the one

or more web portals(col.8 lines 6-57).

Regarding claim 5, Crockett in view of Kambhatla teaches the network of claim 3,

wherein the CPE application server component and the telephony device establish the

call(Fig.1);

wherein the CPE application server component provides one or more interfaces to allow the

telephony device to initiate a request to the CPE application server component wherein in

response to the request from the telephony device to the CPE application server component, the

CPE application server component alters the call(col.25 lines 10-21, col.4 lines 24-57, col.7 lines

1-16, and col.8 lines 6-57).

Regarding claim 6, Crockett in view of Kambhatla teaches the network of claim 5,

wherein the call comprises a voice menu, wherein the application server component updates the

voice menu based on the request(col.8 lines 30-44, col.25 lines 10-21, col.26 lines 4-21, and col.27 lines 5-10).

Regarding claim 7, Crockett in view of Kambhatla teaches the network of claim 6, wherein a plurality of voice menus comprise the voice menu, wherein the application server component provides a first voice menu of the plurality of voice menus to the telephony device(col.8 lines 30-44);

Crockett does not expressly disclose wherein in response to the request from the telephony device to the CPE application server component, the application server component halts the first voice menu and provides a second voice menu of the plurality of voice menus.

Official Notice is taken that at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to: in response to the request from the telephony device, halting the first voice menu and providing a second voice menu of the plurality of voice menus.

One of ordinary skill in the art would have been motivated to do so as Crockett teaches providing multiple voice menus(col.8 lines 30-43 and col.22 line 40-col.23 line 38) and halting the first voice menu to provide a second menu would have been obvious so that both menus wouldn't play simultaneously and cause confusion. Providing one voice menu, then halting it to play a second voice menu is an old and well-known method of providing clear menu selections and prompts.

Regarding claim 8, Crockett in view of Kambhatla teaches the network of claim 5, wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component routes the call(col.4 lines 24-57, col.7 lines 1-

16, and col.8 lines 6-57).

Regarding claim 9, Crockett in view of Kambhatla teaches the network of claim 5, wherein the CPE application server component provides a first one or more services to the telephony device, wherein in response to the request from the telephony device to the CPE application server component, the CPE application server component provides a second one or more services to the telephony device(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57).

Regarding claim 10, Crockett in view of Kambhatla teaches the network of claim 4, wherein the one or more interfaces comprise one or more eXtended Markup Language (XML) interfaces(col.8 lines 6-56);

wherein the CPE application server component communicates with the application server component to provide the one or more eXtended Markup Language interfaces(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57).

Regarding claim 11, Crockett in view of Kambhatla teaches the network of claim 2, wherein the CPE application server component requests of the application server component to establish the one or more web portals through employment of the HyperText Transport Protocol (HTTP) (col.8 lines 44-57).

Regarding claim 13, Crockett in view of Kambhatla teaches the network of claim 1, wherein the CPE application server component provides one or more interfaces associated with the one or more services that allow the telephony device to interact with the one or more services, wherein the CPE application server component provides the one or more interfaces to the application server component through employment of the one or more data streams(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57),

wherein the application server component establishes one or more web portals with the

telephony device(col.8 lines 6-57);

wherein the CPE application server component and the application server component provide

the one or more interfaces through employment of the one

or more web portals(col.8 lines 6-57).

Regarding claim 14, Crockett in view of Kambhatla teaches the network of claim 13,

wherein the CPE application server component associates the call with the one or more services,

wherein the CPE application server component associates the one or more services with the one

or more interfaces, wherein the CPE application server component and the application server

component provide the one or more services that allow the telephony device to perform a

request(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57);

wherein in response to the request from the telephony device to the application server

component, the application service component and the CPE application server component

update the one or more services(col.24 line 57-col.25 line 10).

Regarding claim 15, Crockett in view of Kambhatla teaches the network of claim 12,

wherein the CPE application server component comprises a voice mail system, wherein the voice

mail system associates the call with a plurality of voice menus, wherein the voice mail system

and the telephony device cooperate to establish a voice mail call(col.8 lines 30-44 and col.20

lines 16-53); wherein the voice mail system and the application server component cooperate to

provide a first voice menu of the plurality of voice menus associated with the call to the

telephony device(col.8 lines 30-44 and col.20 lines 16-53);

wherein the voice mail system and the application server component provide one or more

interfaces to allow the telephony device to perform a selection of a second voice menu of the plurality of voice menus(col.8 lines 30-44 and col.20 lines 16-53);

wherein in response to the selection of the second voice menu from the telephony device to the voice mail system, the voice mail system updates the voice mail call to play the second voice menu to the telephony device(col.8 lines 30-44, col.20 lines 16-53, and col.24 line 57-col.25 line 10).);

Regarding claim 16, Crockett in view of Kambhatla teaches the network of claim 12, wherein the CPE application server component comprises a interactive voice response system, wherein the interactive voice response system associates the call with a plurality of voice menus, wherein the interactive voice response system and the telephony device cooperate to establish an interactive voice response call(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57);

wherein the interactive voice response system and the application server component provide a first voice menu of the plurality of voice menus associated with the interactive voice response call to the telephony device(col.8 lines 30-44);

wherein the interactive voice response system and the application server component provide one or more interfaces to allow the telephony device to perform a selection of a second voice menu of the plurality of voice menus(col.8 lines 30-44)

wherein in response to the selection of the second voice menu from the telephony device to the interactive voice response system, the interactive voice response system routes the interactive voice response call(col.4 lines 24-57, col.7 lines 1-16, and col.8 lines 6-57).

Regarding claim 17, Crockett teaches a method, comprising the step of: providing a Customer Premise Equipment(CPE) application server component, providing a application

server component(fig.1); and providing one or more services to a telephony device on a call

through employment of one or more protocols to establish one or more data streams between the

CPE application server and the application server components associated with the call, the one or

more services selectively determined by a user of the telephony device(col.7 lines 3-16, 48-53

and col.8 lines 44-57).

Crockett does not expressly disclose wherein at least one of the protocols is a User

Datagram Protocol(UDP).

In a related field of endeavor (i.e. verbal prompting a caller and navigating the call based

on prompt selection), Kambhatla discloses a User Datagram Protocol(UDP) as a communication

protocol (Kambhatla col.6 lines 17-26).

At the time the invention was made, it would have been obvious to a person of ordinary

skill in the art to include UDP as one of the protocols used in Crockett's several communication

methods(Crockett col.6 lines 15-33).

One of ordinary skill in the art would have been motivated to do so as UDP, as taught by

Kambhatla, is defined as a simple communication protocol used often in real-time applications

and Crockett uses real-time applications in his call services invention(Crockett col.4 lines 24-32).

Furthermore, Crockett discloses that his invention is not limited to aforementioned protocols and

that related protocols are considered equivalents(Crockett col.28 lines 45-56) and therefore as

Kambhatla discloses UDP in the same breadth as the TCP/IP protocol used in

Crockett(Kambhatla col.6 lines 14-26) and are related protocols, it would have been obvious to

use. Utilizing UDP as one of the communication protocols in Crockett would also make it easier

to implement.

UDP was also old and well known at the time of the invention was made and it would have been

obvious to use along with Crockett's several other communication protocols(Crockett col.28

lines 45-56).

Regarding claim 18, Crockett in view of Kambhatla teaches the method of claim 17,

wherein the step of providing, the one or more services to the telephony device on the call

through employment of the one or more data streams associated with the call comprises the steps

of: providing one or more interfaces associated with the one or more services to the telephony

device through employment of one or more web portals(col.4 lines 24-57, col.7 lines 1-16, and

col.8 lines 6-57);

providing for a request of the one or more services through the one or more interfaces and

updating the call based upon the request of the one or more services through the one or more

interfaces(col.24 line 57-col.25 line 10).

Regarding claim 19, Crockett in view of Kambhatla teaches the method of claim 17,

wherein the step of providing, the one or more services to the telephony device on the call

through employment of the one or more data streams associated with the call comprises the steps

of: providing for an employment of the one or more services through the one or more

interfaces(col.8 lines 6-57); and

routing the call based upon the employment of the one or more services(col.24 line 57-col.25

line 10).

Regarding claim 21, Crockett in view of Kambhatla teaches the network of claim 1.

Crockett does not expressly disclose wherein another one of the protocols is a Bearer

Independent Call Control (BICC) protocol.

Official Notice is taken that at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include Bearer Independent Call Control Protocol to use among Crockett's several types of protocols used (col.6 lines 28-33).

One of ordinary skill in the art would have been motivated to do so as using a Bearer Independent Call Control Protocol was an old and well-known signaling protocol used for call setup and services. This would allow integration of multimedia call services networks as taught by Crockett. Using related protocols is merely a design choice among several different types of capable protocols and it would have been further obvious to try different types depending on network functionality. Some examples, Goldthwaite et al., Patent #7,280,847 and Szabo et al., Patent #6,567,425.

Regarding claim 22, Crockett in view of Kambhatla teaches the network of claim 1, wherein the application server component communicates with the CPE application server component through employment of the one or more data streams to update the one or more services provided to the telephony device(col.25 lines 10-21, col.26 lines 4-21, and col.27 lines 5-10).

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JOSEPH T. PHAN whose telephone number is (571)272-7544.

The examiner can normally be reached on Mon-Fri 9am-6:30pm EST, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph T Phan/
Examiner, Art Unit 2614